

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

JOHN JOHNSTON and
DAWN JOHNSTON,

Plaintiffs,

v.

CIVIL NO. 06-11617
HON. LAWRENCE P. ZATKOFF

SAPPI FINE PAPER NORTH AMERICA,
a Pennsylvania Corporation, S.D. WARREN
COMPANY, a Pennsylvania Corporation,
d/b/a SAPPI FINE PAPER NORTH AMERICA,

Defendant.

ORDER DENYING DEFENDANT'S MOTION FOR RECONSIDERATION

This matter is before the Court on Defendant's motion for reconsideration, filed on April 9, 2007. Pursuant to E.D. MICH. LR 7.1(g)(2), no response is permitted. Defendant challenges the Court's March 29, 2007 opinion denying Defendant's motion for summary judgment.

A motion for reconsideration is governed by E.D. MICH. LR 7.1(g)(3), which states, "the court will not grant motions for rehearing or reconsideration that merely present the same issues ruled upon by the court, either expressly or by reasonable implication."

Defendant agrees that "the determinative question is whether someone conducting a reasonable inspection of the trailer would have concluded that no load securement devices had been used." Defendant argues that Plaintiff's visual inspection showed that no load securement devices had been used, thus, Plaintiff was on notice that the load was not properly secured and Defendant is not liable. However, Defendant's argument fails to account for the fact that there may be load

securement measures that are required, but not discoverable upon reasonable inspection. That is precisely what Plaintiff is arguing: Plaintiff's expert stated that it would have been impractical for Plaintiff to conduct an inspection that would have revealed an absence of friction matting. Viewing the evidence in the light most favorable to Plaintiff, there is a question of fact regarding whether a reasonable inspection would have detected an absence of friction matting. Therefore, Defendant's motion for reconsideration is **HEREBY DENIED**.

IT IS SO ORDERED.

s/Lawrence P. Zatkoff
LAWRENCE P. ZATKOFF
UNITED STATES DISTRICT JUDGE

Dated: April 12, 2007

CERTIFICATE OF SERVICE

The undersigned certifies that a copy of this Order was served upon the attorneys of record by electronic or U.S. mail on April 12, 2007.

s/Marie E. Verlinde
Case Manager
(810) 984-3290